



Billing Codes: 3510-22-P, 4310-55-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

RIN 0648-XC961

[FWS-R8-ES-2013-N182]

Habitat Conservation Plan for the United Water Conservation District, Santa Clara River Watershed, Ventura County, California

AGENCIES: National Marine Fisheries Service, National Oceanic and Atmospheric Administration (NOAA), Commerce; Fish and Wildlife Service, Interior.

ACTION: Notice of intent to prepare an environmental impact statement (EIS) and notice of public scoping meetings.

SUMMARY: We, the National Marine Fisheries Service and Fish and Wildlife Service (Services), in cooperation with the Army Corps of Engineers, intend to prepare an EIS under the National Environmental Policy Act (NEPA) regarding expected applications from the United Water Conservation District (United) for incidental take permits under the Federal Endangered Species Act of 1973, as amended (ESA). The EIS will analyze the environmental effects of the Services' proposed issuance of incidental take permits for United's construction, operations, and maintenance of water management facilities within the lower Santa Clara River watershed, Ventura County, California. The Services also provide this notice to announce a public scoping period, during which we invite other agencies, Tribes, and the public to submit written comments providing suggestions and information on issues and alternatives to include in the EIS.

DATES: To ensure consideration of any written comments, please submit them by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Public

meetings will be held on December 12, 2013, from 1 p.m. to 3 p.m. and 6 p.m. to 8 p.m.

ADDRESSES: The public meetings will be held at Courtyard by Marriott , 600 East Esplanade Drive, Oxnard, CA 93036. To request further information or submit information related to preparation of the EIS, please use one of the following methods:

1. U.S. Mail: You may mail written information and comments to: Darren Brumback, National Marine Fisheries Service, Southwest Regional Office, 501 West Ocean Blvd, Suite 4200, Long Beach, CA 90802; or David Simmons, Ventura Fish and Wildlife Office, 2493 Portola Rd, Suite B, Ventura, CA 93003.
2. In-Person Drop-off: You may hand-deliver written information and comments to either U.S. mail address above.
3. E-mail: You may submit information and comments by electronic mail to: [unitedwaterhcp@noaa.gov](mailto:unitedwaterhcp@noaa.gov). If submitting an electronic mail attachment, please use one of these document formats: Adobe portable document format (.pdf), Microsoft Word (.doc, .docx), rich text file (.rtf), ASCII or Unicode plaintext (.txt), Microsoft Excel (.xls, .xlsx), Word Perfect (.wpd), or Microsoft Works (.wps).

FOR FURTHER INFORMATION CONTACT: Darren Brumback, by mail at the address above or by telephone at 562-980-4060; or David Simmons, by mail at the address above or by telephone at 805-644-1766. If you use a telecommunications device for the deaf, please call the Federal Information Relay Service at 800-877-8339 or visit Federal Relay at <http://www.federalrelay.us/>. Information regarding this proposed action is available in alternative formats upon request.

SUPPLEMENTARY INFORMATION: The Services publish this notice under the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.), and its implementing regulations in the Code of Federal Regulations at 40 CFR 1506.6, and pursuant to section 10(c) of the ESA. We intend to prepare a draft EIS to evaluate the impacts of several alternatives related to the potential issuance of incidental take permits to United, as well as impacts of the implementation of the supporting proposed Multiple Species Habitat Conservation Plan (HCP). The permits would authorize the incidental take of threatened and endangered species that could occur as a result of United's current and future water management activities. United intends to request a 50-year permit covering five species federally listed as threatened or endangered and six species that are not federally listed but may become listed during the term of the permit.

For preparation of the EIS under NEPA, the Services will serve as co-lead Federal agencies, and the Corps will serve as a cooperating agency. The primary purpose of the scoping process is for the public and other agencies to assist in developing the EIS by identifying important issues and alternatives related to the HCP and the Services' proposed action (issuance of incidental take permits). As a cooperating agency, the Corps will assist the Services in developing the EIS and determine whether to adopt the EIS to support issuance of permits for proposed activities that are specifically regulated under section 404 of the Clean Water Act.

Additionally, United will post a separate notice of preparation for an environmental impact report (EIR) in compliance with the California Environmental Quality Act (CEQA) and in support of United's application for State incidental take permits under Section 2081 of the California Endangered Species Act. The public scoping meeting identified in this notice will be concurrent with United's public scoping meeting regarding development of an EIR under CEQA.

Background

Section 9 of the ESA (16 U.S.C. 1531 et seq.) and its implementing regulations prohibit the “take” of animal species listed as endangered or threatened. The ESA defines the term “take” as: to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed animal species, or attempt to engage in such conduct (16 U.S.C. 1532(19)). “Harm” includes significant habitat modification or degradation that actually kills or injures listed wildlife, including listed fish, by significantly impairing essential behavioral patterns, including breeding, feeding, and sheltering (50 CFR 17.3(c)). NMFS’ definition of “harm” includes significant habitat modification or degradation where it actually kills or injures fish or wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, spawning, migrating, rearing, and sheltering (64 FR 60727, November 8, 1999).

Under section 10(a) of the ESA, the Services may issue permits to authorize “incidental take” of listed animal species. “Incidental take” is defined by the ESA as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. The Services’ regulations governing permits for threatened and endangered species, respectively, are at 50 CFR 13 and 50 CFR 17. NMFS’ regulations governing permits for threatened and endangered species are at 50 CFR 222.22.

Section 10(a)(1)(B) of the ESA contains provisions for issuing incidental take permits to non-Federal entities for the take of endangered and threatened species, provided the following criteria are met:

- The taking will be incidental;
- The applicants will, to the maximum extent practicable, minimize and mitigate the impact of such taking;
- The applicants will develop a proposed HCP and ensure that adequate funding for the

plan will be provided;

- The taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild; and
- The applicants will carry out any other measures that the Services may require as being necessary or appropriate for the purposes of the HCP.

Additionally, applicants must satisfy the issuance criteria established by the Services (50 CFR 17.22(b)(2) and 50 CFR 222.307). Issued permits include assurances for the applicant under the Services' "No Surprises" regulations (50 CFR 17.22(b)(5) and 17.32(b)(5)).

#### Proposed Plan

In accordance with section 10(a)(2)(A) of the ESA, United is preparing an HCP to support an application for a permit from each of the Services to incidentally take listed animal species. The following summarizes information provided by United regarding its HCP.

United is currently proposing to cover 11 species (Covered Species) under the HCP, including 5 federally listed species and 6 unlisted species that may become listed during the term of the permits. The five federally listed species are the southern California steelhead (*Oncorhynchus mykiss*), tidewater goby (*Eucyclogobius newberryi*), least Bell's vireo (*Vireo bellii pusillus*), southwestern willow flycatcher (*Empidonax trillii extimus*), and California least tern (*Sterna antillarum browni*). The six unlisted species proposed for coverage are the Pacific lamprey (*Entosphenus* (=Lampetra) *tridentata*), western yellow-billed cuckoo (*Coccyzus americanus*), yellow-breasted chat (*Icteria virens*), yellow warbler (*Dendroica petechia*), two-striped garter snake (*Thamnophis hammondi*), and western pond turtle (*Actinemys* (=Clemmys) *marmorata*). Species may be added or deleted during the course of proposed HCP development based on further analysis, new information, agency consultation, and public comment.

The geographic area proposed to be covered by the HCP includes portions of the lower Santa Clara River watershed downstream of the city of Santa Paula, California. The HCP would cover construction, operations, and maintenance of United's facilities at and near the Vern Freeman Diversion Dam (Freeman Diversion) near Saticoy, California. "Covered Activities" include, but are not limited to: construction of a new fish-passage facility; operation and maintenance of the Freeman Diversion; diversion of water from the Santa Clara River; vegetation management; and operation and maintenance of fish-passage facilities, settling ponds/spreading grounds, and water conveyance structures (i.e., pipes, canals, etc.). United expects that Covered Activities could have direct and/or indirect effects on the Covered Species from the vicinity of the Freeman Diversion to the Santa Clara River estuary, a distance of approximately 10 river miles.

The Services expect the proposed HCP to minimize and mitigate to the maximum extent practicable any effects on Covered Species resulting from Covered Activities, through implementation of a conservation program that includes conservation actions and monitoring, which will be fully described in the proposed HCP. This conservation program will focus on providing for the long-term management of biological communities that support Covered Species in the plan area.

#### Environmental Impact Statement

NEPA (42 U.S.C. 4321 et seq.) requires that Federal agencies conduct an environmental analysis of their proposed actions to determine if the actions may significantly affect the human environment. Based on 40 CFR 1508.27 and 40 CFR 1508.2, the Services have determined that the proposed HCP may have significant effects on the human environment. Therefore, before

deciding whether to issue Federal incidental take permits to United, the Services will prepare an EIS to analyze the environmental impacts associated with issuance of the incidental take permits.

The EIS will include a reasonable range of alternatives to the proposed project, and the alternatives will be considered in the Services' environmental review. The EIS will consider the impacts of the proposed action, the issuance of section 10(a)(1)(B) permits under the ESA, and of several alternatives, including but not limited to, variations in the levels, location, and types of conservation; the scope of Covered Activities; the list of Covered Species; or a combination of these factors. Additionally, a No Action alternative will be included. Under the No Action alternative, the Services would not issue section 10(a)(1)(B) permits. Further, the EIS will identify and describe direct, indirect, and cumulative impacts on biological resources, land use, air quality, water quality, water resources, socio-economics, climate, and other environmental resources that could occur with the implementation of the proposed action and alternatives. The Services will also identify measures, consistent with NEPA and other relevant considerations of national policy, to avoid or minimize any significant effects of the proposed action on the quality of the human environment. Following completion of the environmental review, the Services will publish a notice of availability and a request for comment on a draft EIS and the applicant's permit application, which will include a draft of the proposed HCP.

#### Public Comments

We request data, comments, new information, or suggestions from the public, other governmental agencies, the scientific community, Tribes, industry, or any other interested party on this notice. We will consider these comments in developing a draft EIS. We seek specific comments on:

1. Biological information and relevant data concerning the Covered Species;

2. Additional information concerning the range, distribution, population size, and population trends of the Covered Species;
3. Direct, indirect, and cumulative impacts that implementation of the proposed Covered Activities could have on endangered, threatened, and other Covered Species, and their communities and habitats;
4. Other possible alternatives that the Services should consider;
5. Other current or planned activities in the subject area and their possible impacts on the Covered Species;
6. The presence of archeological sites, buildings and structures, historic events, sacred and traditional areas, and other historic preservation concerns, which are required to be considered in project planning by the National Historic Preservation Act; and
7. Identification of any other environmental issues that should be considered with regard to the proposed HCP and permit action.

You may submit your comments and materials by one of the methods listed in the ADDRESSES section. Written comments also will be accepted at the scoping meeting.

#### Scoping Meeting

See DATES for the date and time of the public meeting. The scoping meeting is intended to provide the public with a general understanding of the background of the proposed HCP and activities it would cover, alternative proposals under consideration for the draft EIS, and the Services' role and steps to be taken to develop the draft EIS.

The primary purpose of the meeting and public comment period is to solicit suggestions and information on the scope of issues and alternatives for the Services to consider when drafting the EIS. Written comments will be accepted at the meetings. Comments can also be submitted by



the methods listed in the ADDRESSES section. Once the draft EIS and proposed HCP are complete and made available for review, there will be an opportunity for public comment on the content of those documents through an additional public comment period.

#### Meeting Location Accommodations

Persons needing reasonable accommodations to attend and participate in the public meeting should contact Darren Brumback at 562-980-4060 or David Simmons at 805-644-1766. To allow sufficient time to process requests, please call no later than 1 week before the public meeting. If you use a telecommunications device for the deaf, please call the Federal Information Relay Service at 800-877-8339 or visit Federal Relay at <http://www.federalrelay.us/>. Information regarding this proposed action may be available in alternative formats upon request.

Authority

We provide this notice under section 10 of the ESA (16 U.S.C. 1531 et seq.) and per NEPA Regulations (40 CFR 1501.7, 40 CFR 1506.6, and 1508.22).

Dated: November 5, 2013.

Angela Somma, Chief, Endangered Species Division,  
National Marine Fisheries Service, Office of Protected Resources.

Dated: November 5, 2013.

Alexandra Pitts,  
Deputy Regional Director,  
Pacific Southwest Region,  
U.S. Fish and Wildlife Service,  
Sacramento, California.

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